

AGENDA



**CITY OF NEWPORT BEACH
ENVIRONMENTAL QUALITY AFFAIRS
COMMITTEE**

DATE/TIME: Monday, May 19, 2008 - 7:00 p.m.

**LOCATION: City Council Chambers
3300 Newport Boulevard**

NOTE SPECIAL LOCATION

Roll Call

1. Minutes of April 21, 2008 (*draft minutes attached*)
2. Discussion of recommendation to City Council on polystyrene food packaging (*Attachments*)
3. Review of CEQA basics and guidelines for review and comment on environmental documents (*Attachments*)(*Attachments*)
4. Coastal/Bay Water Quality Committee Representative's Report
5. Economic Development Committee Representative's Report
6. Report from Staff on Current Projects
7. Public Comments
8. Future Agenda Items
9. Adjournment

**NEXT MEETING DATE: June 16, 2008
CITY COUNCIL CHAMBERS**

AGENDA

*Attachments can be found on the City's website <http://www.city.newport-beach.ca.us>. Once there, click on ***City Council***, then scroll to and click on ***Agendas and Minutes*** then scroll to and click on ***Environmental Quality Affairs***. If attachment is not on the web page, it is also available in the City of Newport Beach Planning Department, 3300 Newport Boulevard, Building C, 2nd Floor.



CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE

DRAFT MINUTES 4-21-08

Draft minutes of the Environmental Quality Affairs Committee held at the City of Newport Beach Police Department Auditorium, 870 Santa Barbara Drive, on **Monday, April 21, 2008.**

Members Present:

E	Nancy Gardner, Council Member		Sandra Haskell
X	Michael Henn, Council Member	E	Barry Allen
X	Bruce Asper		Kristine Adams
X	Dolores Otting, Vice Chair		Susan Knox
	Kimberly Jameson	X	Arlene Greer
		X	Timothy Stoaks
			Jennifer Winn
X	Laura Dietz		Ray Halowski
	Kenneth Drellishak, Chair	X	Barbara Thibault
	Laura Curran		Merritt Van Sant
X	Michael Smith	X	Robert Rush
X	Michael Pascale		

Staff Representatives:

Guests:

	Ass't City Mgr. Sharon Wood	Kevin Kelly Philip Bettencourt
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Chairperson Ken Drellishak called the meeting to order at 7:03 p.m. He introduced Kevin Kelly, whose appointment to the Committee will be considered by the City Council on April 22, 2008.

1. Minutes of March 17, 2008

Ray Halowski moved to approve the minutes. Arlene Greer seconded the motion.

Motion passed unanimously

2. Report on Task Force on Green Development

Sharon Wood reported that the City Council had established this task force on April 8, 2008, and would be appointing members on April 22, 2008. Recommended members are Council

member Gardner, chair, Bruce Asper, Arlene Greer and Kevin Kelly from EQAC, and Planning Commissioner Michael Toerge, Brion Jeannette and Todd Schooler from the General Plan/LCP Implementation Committee. The Committee requested that a standing report from the Task Force be added to future EQAC agendas.

3. Discussion of EQAC Mission, recommendations to City Council on changes to Resolution establishing EQAC

The Committee discussed draft changes to the Resolution. Ray Halowski moved and Dolores Otting seconded that EQAC recommend City Council approval of the revised Resolution, as amended by EQAC.

Motion passed unanimously

4. Report on other cities' approaches to polystyrene food packaging ban, and consideration of recommendation to City Council

Robert Rush summarized information that he had collected from other cities. Committee discussion followed. Chairperson Drellishak volunteered to prepare a draft memorandum from EQAC to the City Council, outlining the issues and recommending either incentives or a ban on polystyrene, for consideration at the meeting of May 19.

5. Coastal/Bay Water Quality Committee Representative's Report

Council member Henn reported that the Water Quality Master Plan is in progress, and it will set priorities for approximately \$100 million of projects.

6. Report from Staff on Current Projects

Sharon Wood reported that a revised Mitigated Negative Declaration for the Aerie project is expected to be released on May 2, and it will be available online.

7. Public Comments

Chairperson Drellishak reported that the City has hired a consultant and is beginning a parking management study of older commercial areas, starting with Corona del Mar. This study was recommended by the Economic Development Committee.

8. Future Agenda Items

9. Adjournment

Chair Drellishak adjourned the meeting at 8:55 p.m.

DRAFT

To: Ed Selich, Mayor, City of Newport Beach 19 May 2008

From: Environmental Quality Affairs Citizens Committee (EQAC)

Subject: Limitations on use of polystyrene packaging in Newport Beach

CC: Councilmembers: Curry, Daigle, Gardner, Henn, Rosansky, Webb

Reference: 1. "Environmental Effects of Polystyrene Production and Disposal", 3/1/07, Californians Against Waste

2. "Use and Disposal of Polystyrene in California", Dec. 2004, Report to California Legislature by California Integrated Waste Management Board

3. "List of Local Food Packaging Ordinances", 4/25/08, Californians Against Waste

Polystyrene is used in packaging of food, electronics and a wide variety of consumer products commonly available in our community. Styrofoam (an air-blown, expanded form of polystyrene) is commonly used in beverage cups, "peanut" packaging fillers, pre-formed electronics shipping containers and super market food packages, but some form of polystyrene can be found in the packaging of a majority of the products we buy. Hundreds of tons of such material are produced and used in California each year with Newport Beach using its proportionate share. Although some of the material finds its way into landfills and recycling centers, a large portion is used and discarded in such a way as to find its way into our storm drains, rivers, streams, bay and ocean or onto our beaches. Based on our population, Newport Beach alone could be using and disposing of over 300 tons per year of polystyrene in support of our local food service industry (reference 1). Since polystyrene does not naturally decompose, the majority of this builds up in our landfills or pollutes the ocean. This conclusion is supported by a study by the California Integrated Waste Management Board (reference 2, Executive Summary) that states: "There is no meaningful recycling of food service polystyrene".

This issue has been studied extensively by the Newport Harbor High School Surf and Environmental Club, and they have collected a significant inventory of technical articles and studies detailing the extent and severity of the problems (see attached list).

Many California municipalities have already recognized the situation and enacted ordinances either banning or severely limiting the local use of polystyrene food packaging (reference 3). In most cases, these ordinances have been limited to “takeout food packaging” with adequate lead-time provisions to allow affected vendors to find alternative, affordable packaging approaches. In most cases the municipalities have preceded the ordinances with self-imposed restrictions on city operations to demonstrate viability and to allow for time to prepare. Over 30 communities are listed in the reference 3 article including Long Beach, Los Angeles, Santa Monica and Laguna Beach (where Municipal Code Section 7.05, “Disposable Food Containers” goes into effect July 1, 2008).

Recognizing the significance of this problem, EQAC believes that it is now reasonable for the City of Newport Beach to take action to limit, and eventually ban, the local use of polystyrene food packaging materials. Our stewardship of the local waterways, beaches and ocean demands it, and a large number of other communities have successfully paved the way for us. We suggest that a self-imposed ban at city facilities and functions be implemented immediately, and that preparation of an appropriate ordinance should proceed with the objective of implementation within one year from now.

CEQA

The California Environmental Quality Act

- The basic goal of the California Environmental Quality Act (CEQA) (Pub. Res. Code §21000 *et seq.*) is to develop and maintain a high-quality environment now and in the future, while the specific goals of CEQA are for California's public agencies to:
 - 1) identify the significant environmental effects of their actions; and, either
 - 2) avoid those significant environmental effects, where feasible; or
 - 3) mitigate those significant environmental effects, where feasible.
- CEQA applies to "projects" proposed to be undertaken or requiring approval by State and local government agencies.

"Projects" are activities which have the potential to have a physical impact on the environment and may include the enactment of zoning ordinances, the issuance of conditional use permits and the approval of tentative subdivision maps.

- Where a project requires approvals from more than one public agency, CEQA requires one of these public agencies to serve as the "lead agency."

A "lead agency" must complete the environmental review process required by CEQA. The most basic steps of the environmental review process are:

- 1) Determine if the activity is a "project" subject to CEQA;
- 2) Determine if the "project" is exempt from CEQA;
- 3) Perform an Initial Study to identify the environmental impacts of the project and determine whether the identified impacts are "significant". Based on its findings of "significance", the lead agency prepares one of the following environmental review documents:
 - a) Negative Declaration if it finds no "significant" impacts;
 - b) Mitigated Negative Declaration if it finds "significant" impacts but revises the project to avoid or mitigate those significant impacts;
 - c) Environmental Impact Report (EIR) if it finds "significant" impacts.

While there is no ironclad definition of "significance", the State CEQA Guidelines provides criteria to lead agencies in determining whether a project may have significant effects in Article 5.

The purpose of an EIR is to provide State and local agencies and the general public with detailed information on the potentially significant environmental effects which a proposed project is likely to have and to list ways which the

significant environmental effects may be minimized and indicate alternatives to the project.

Both the [CEQA Statute](#) and [CEQA Guidelines](#) are available on-line. Print copies are available to the public in all county libraries, as well as some colleges and university libraries, in the government publications section.

| [CERES](#) | [CEQA Home](#) | [CEQA Statute](#) | [Wetlands](#) | [LUPIN](#) |



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CEQA

The California Environmental Quality Act

Frequently Asked Questions About CEQA

What is CEQA?

When and why was it enacted?

Who must comply with CEQA?

If it applies, what are the basic requirements of environmental review under CEQA?

What are the CEQA Guidelines?

How are the Guidelines crafted?

How often are the Guidelines amended?

Who enforces CEQA? What role does the Resources Agency have in enforcement of CEQA?

What aspects of CEQA compliance is the Secretary for Resources responsible?

What is CEQA?

CEQA, or the California Environmental Quality Act, is a statute that requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible.

When and why was it enacted?

The impetus for CEQA can be traced to the passage of the first federal environmental protection statute in 1969, the National Environmental Policy Act (NEPA). In response to this federal law, the California State Assembly created the Assembly Select Committee on Environmental Quality to study the possibility of supplementing NEPA through state law. This legislative committee, in 1970, issued a report entitled *The Environmental Bill of Rights*, which called for a California counterpart to NEPA. Later that same year, acting on the recommendations of the select committee, the legislature passed, and Governor Reagan signed, the CEQA statute.

Who must comply with CEQA?

CEQA applies to certain activities of state and local public agencies. A public agency must comply with CEQA when it undertakes an activity defined by CEQA as a "project." A project is an activity undertaken by a public agency or a private activity which must receive some discretionary approval (meaning that the agency has the authority to deny the requested permit or approval) from a government agency which may cause either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment.

Most proposals for physical development in California are subject to the provisions of CEQA, as are many governmental decisions which do not immediately result in

physical development (such as adoption of a general or community plan). Every development project which requires a discretionary governmental approval will require at least some environmental review pursuant to CEQA, unless an exemption applies.

If it applies, what are the basic requirements of environmental review under CEQA?

The environmental review required imposes both procedural and substantive requirements. At a minimum, an initial review of the project and its environmental effects must be conducted. Depending on the potential effects, a further, and more substantial, review may be conducted in the form of an environmental impact report (EIR). A project may not be approved as submitted if feasible alternatives or mitigation measures are able to substantially lessen the significant environmental effects of the project.

What are the CEQA Guidelines?

The Guidelines are the regulations that explain and interpret the law for both the public agencies required to administer CEQA and for the public generally. They are found in the California Code of Regulations, in Chapter 3 of Title 14. The Guidelines provide objectives, criteria and procedures for the orderly evaluation of projects and the preparation of environmental impact reports, negative declarations, and mitigated negative declarations by public agencies. The fundamental purpose of the Guidelines is to make the CEQA process comprehensible to those who administer it, to those subject to it, and to those for whose benefit it exists. To that end, the Guidelines are more than mere regulations which implement CEQA as they incorporate and interpret both the statutory mandates of CEQA and the principles advanced by judicial decisions.

How are the Guidelines crafted?

The Governor's Office of Planning and Research prepares and develops proposed amendments to the Guidelines and transmits them to the Secretary for Resources. The Secretary for Resources is responsible for certification and adoption of the Guidelines and amendments thereto. Prior to final certification and adoption, and pursuant to the procedures in the Administrative Procedure Act, the Secretary for Resources makes the proposed language available to members of the public, provides for at least a 45 day written comment period, and provides public hearings in which to receive oral testimony on the proposals. All public comments, whether received in writing or orally at a public hearing, are considered by the Secretary in determining whether to adopt the proposed amendments prepared by the Office of Planning and Research. Once edited and enriched by the practical experience and wisdom of individual public comments, amendments are adopted and sent to the Office of Administrative Law (OAL) for review and final approval. Guidelines approved by OAL are deposited with the Secretary of State and go into immediate effect.

How often are the Guidelines amended?

Revision of the CEQA Guidelines is an on-going process. By statute, the Secretary

of Resources is required to review and consider amendments to the Guidelines every two years. Annual changes to CEQA and evolving case law make revision to the Guidelines necessary on a continual basis. By the time one revision is completed, another one begins. Because the subject is so large and complex, a definitive, one-time revision is not possible. The actual process of amending the Guidelines is governed by the Administrative Procedure Act and is the same as that described above in "How are the Guidelines crafted?"

Who enforces CEQA? What role does the Resources Agency have in enforcement of CEQA?

CEQA is a self-executing statute. Public agencies are entrusted with compliance with CEQA and its provisions are enforced, as necessary, by the public through litigation and the threat thereof. While the Resources Agency is charged with the adoption of CEQA Guidelines, and may often assist public agencies in the interpretation of CEQA, it is each public agency's duty to determine what is and is not subject to CEQA. As such, the Resources Agency does not review the facts and exercise of discretion by public agencies in individual situations. In sum, the Agency does not enforce CEQA, nor does it review for compliance with CEQA the many state and local agency actions which are subject to CEQA.

What aspects of CEQA compliance is the Secretary for Resources responsible?

In addition to adopting the CEQA Guidelines and amendments thereto, the Secretary for Resources possesses the following responsibilities:

- 1) Makes findings that a class of projects given categorical exemptions will not have a significant effect on the environment;
- 2) Certifies state environmental regulatory programs which meet specified standards as being exempt from certain provisions of CEQA;
- 3) Receives and files notices of completion, determination, and exemption; and
- 4) Provides assistance in interpreting the provisions of CEQA and the CEQA Guidelines.

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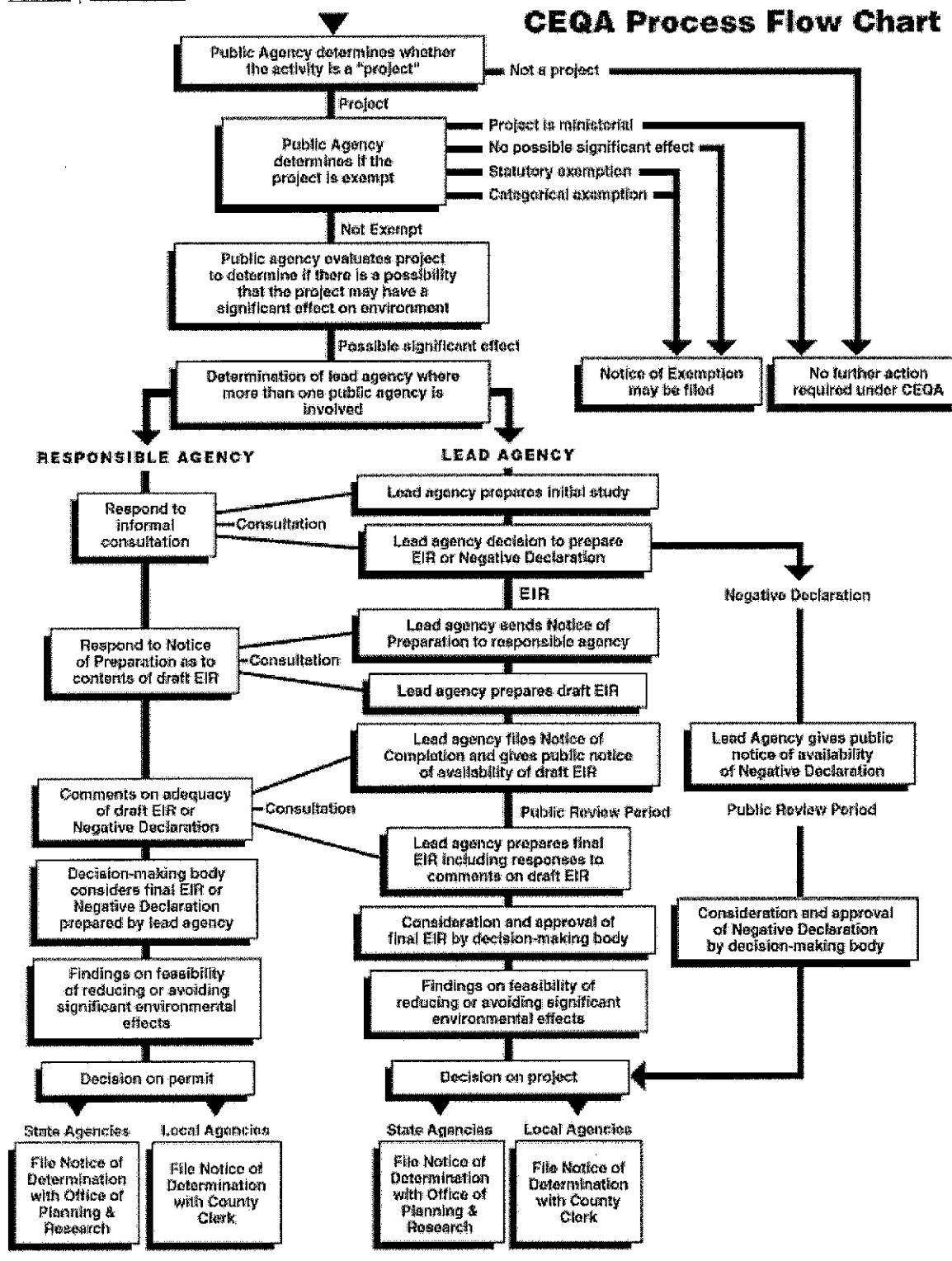
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CEQA

The California Environmental Quality Act

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CEQA Process Flow Chart



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City on Newport Beach Environmental Quality Affairs Citizens
Advisory Committee (EQAC)
Notes on Getting Started on Reviewing Assigned Documents
Kenneth S. Drellishak
EQAC Chairman
January 2007

BACKGROUND

EQAC was established by City Council Resolution in 1987 and serves as a vehicle for citizen inputs regarding major land use projects within the City of Newport Beach or near our borders. The City Staff and Planning Department determine whether a proposed project will cause “significant” impacts on environmental issues defined by California Environmental Quality Act (CEQA). If these impacts cannot be mitigated to “less than significant” by the project proponent, the City will initiate a process leading to preparation of a full Environmental Impact Report (EIR), which must be approved by the Planning Commission and/or City Council prior to proceeding with the project. EQAC members should research CEQA on the Internet or at the Public Library to become acquainted with required environmental issues and the required format of an EIR. Also, get access to a recent DEIR with associated EQAC comments from City staff.

CEQA SECTION 15064- Determining the Significance of the Environmental Effects Caused by a Project

This section of CEQA deals with determination of whether a project will have a “significant” impact on the environment. “Significant” environmental impact is not a precise term. CEQA states that this occurs if the project produces a detrimental direct physical change in the environment or reasonably foreseeable indirect physical changes. This leaves wide latitude for interpretation, but the relevant agencies have developed significant experience and expertise in making such determinations.

The lead agency (usually the City of Newport Beach for projects reviewed by EQAC) will determine and quantify the “significant” environmental impacts for a project. The DEIR must analyze each of these impacts and propose “mitigation measures” to reduce each of the impacts to “less than significant”. If this cannot be achieved, the lead agency may choose to proceed with the project after adoption of a “statement of overriding considerations” which emphasizes the importance of the public good over the remaining “significant” environmental impacts.

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IS/NOP

If it is determined that an EIR is required, the City will proceed by issuing an Initial Study/Notice of Preparation (IS/NOP). This identifies key environmental issues and invites all interested parties (including EQAC) to provide inputs to the proponents regarding what they would like to see covered and/or emphasized in the EIR. CALTRANS, SCAQMD, Dept. of Fish and Game, affected Community Associations, citizens and various other persons/agencies will be noticed and asked to provide inputs, and most of them will provide feedback. If time permits, EQAC will assign a team to review and comment on the IS/NOP. Since the IS/NOP contains little or no analysis, our job is to review the logic of the IS, identify areas that may have been overlooked and ask for adequate supporting analysis in key areas. Because this is early in the process, comments on the IS/NOP will generally be broad and general in nature and designed to elicit complete responses in the DEIR

DEIR

A draft EIR (DEIR) for the project will be prepared using CEQA guidelines and guidance from the IS/NOP inputs, and EQAC will be asked to comment on the DEIR before it goes to Planning Commission and/or City Council for final approval. A typical DEIR will consist of several hundred pages of reports and technical Appendices. Don't be overwhelmed! You will be asked to review only a portion of the DEIR and Appendices. (The first DEIR Appendix is usually the IS/NOP with responses, and the others will be technical studies and analyses). Following are some ideas on how to get started:

1. Read and take notes on the Introduction and Project Description sections. This will give you a good feeling for what the project is all about and what the writers think are important issues. When reviewing your sections(s) keep an eye out for inconsistencies and be sure to comment on them (e.g. the Project Description describes a parking lot with 48 locations, but your section says 40 locations. Which is being proposed?)
2. Read the IS/NOP responses in the Appendix related to your area and be sure that the DEIR analyzes all issues requested by the IS/NOP responders.

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3. Read your sections(s) thoroughly and read the supporting technical analyses in the Appendices. If you are not able to evaluate the technical analyses, try to make sure that they at least cover the required topics. For example, a project may be required to analyze Hazardous Materials and various other topics. Read what they say are requirements in each of these areas. (Requirements will be summarized in Tables in Section 2 and discussed in more detail in Section 4 of the DEIR.) Be sure that the supporting analysis at least deals with the requirements they described. If not, we must ask them to do so. Don't be intimidated if you can't fully evaluate the technical appendices. You may not be able to critique the computer analysis, but you can critique the overall logic involved. A typical comment might be as followed:

“Page 503, paragraph 3 of the DEIR states that selenium contamination due to dredging operations could exceed EPA acceptable levels, but this issue is not analyzed in the Appendix. Please add definitive analysis to show that the completed project meets EPA standards.”

4. We may take issue with any of the environmental impacts and/or mitigation measure if we chose. However, we must use some evidence from the DEIR on our knowledge of Newport Beach environmental issues to substantiate our concerns. Without supporting data/evidence, opinions don't carry much weight.
5. Please feel free to comment on any section of the DEIR, even if it is not your assigned area. We will sort out any duplications/redundancies when we review and finalize inputs at the full EQAC meeting.

GENERAL REVIEW DISCIPLINES

1. The DEIR is a stand-alone document. Anything that is missing cannot be expected to be present in the final document. If something is asserted, but not proven, demand proof.
2. We are to criticize the DEIR based on its adherence to CEQA requirements and on what is contained in the report. If something is missing, ask for it. If there are inconsistencies, point them out. If you don't think that mitigation is good enough, suggest/request better.

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3. Be specific about which part (page and paragraph) of the DEIR you are questioning. Use third person format (i.e. the proponent shows no plans for meeting...), and avoid first person references (i.e. I can't see how the proponent plane to meet....).
4. We are not to critique efficacy of the project, per se. Planning Commission and City Council will conduct other in depth evaluation of the proposed project. We are to limit our attention to CEQA issues.

CONCLUSION

I hope this helps in getting started on your EQAC assignments. Practice makes perfect and you will all be proficient contributors in no time. Enjoy your new insights into the future of Newport Beach..